

BOARD OF REVIEW DECISION

Title of Publication: Untitled 'Bedroom Scene'

Other Known Title: "A"

Medium: Video Recording VHS/PAL

Director/Author: Not Applicable

Producer/Publisher: Not Applicable

Country of Origin: New Zealand

Language: English

Applicant: KA

Distributor: Not Applicable

Classification:	Objectionable.
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Descriptive Note: Not Applicable

Display Conditions: Not Applicable

Date of entry in Register: 03 October 2008

Date of direction to issue a label: Not Applicable

OFLC No: 801924

Unexcised version of publication:

Timed Components:	Untitled 'Bedroom Scene'	4.04
Total running time:		4.04

Excisions: Not Applicable

Reasons for excisions:

Not Applicable

**Summary of reasons
for classification:**

SUMMARY OF REASONS FOR DECISION:

Section 3(1) of the Films, Videos, and Publications Classification Act 1993

With respect to section 3(1) of the Act, the Film and Literature Board of Review (the Board) finds that *The 'Untitled Bedroom Scene'* or "*A*" passes through the gateway of sex. The video recording depicts sex with the close-up of the boy's penis, and the way the father talks about his own penis and the child's penis.

Counsel for KA provided a competent assessment of her client's reasons for producing the publication. Neither of these reasons show on the face of the publication. If the purpose of *The 'Untitled Bedroom Scene'* was as a disciplinary tool, then the child was not being naughty at the time, but rather frightened and demeaned. As the Office of Film and Literature Classification (OFLC) states in its submission, there are certainly more suitable ways of providing evidence of alleged sexual abuse to the police.

The Board considers *The 'Untitled Bedroom Scene'* as being "injurious to the public good" unless restricted, based on the fact that the publication concentrates on a child's genitalia. There is no indication on the face of the publication as to the purpose for which KA alleges the publication was made. The video recording is therefore abusive of the child and is made worse by the child's obvious distress, the fact that his sister is watching, and the sexual nature of language the father uses.

Section 3(1A)

Section 3(1A) of the Act requires that the publication contains one or more visual images of a child who is nude, or partially nude, and that those images, together with any other content of the publication, are reasonably capable of being regarded as sexual in nature.

The child is nude from his head to below his genitals. The aspects which contribute to the publication being considered sexual in nature are the way in which the camera zooms in on the boy's penis, and the sexual comments made by the father including:

"I should pull out my cock and say 'Spoof on this, you little fuck.'"

"Oh, you are such a meaningless dick."

"Give us a look. You've got a little pecker there."

The father also uses the words "fuck" and "wanker".

Section 3(2)

This section of the Act is commonly known as the deeming provision. If a publication promotes or supports, or tends to promote or support, one or more of the activities described in subclauses (a) to (f), then the publication is deemed to be objectionable.

The Board considers that section 3(2)(a) is applicable in respect of *The 'Untitled Bedroom Scene'*. That subsection states that a publication will be deemed objectionable if it promotes or supports, or tends to promote or support, “the exploitation of children, or young persons, or both, for sexual purposes”.

The Board finds that the material in the video recording shows a father subjecting his son to verbal and sexual abuse. The boy is clearly distressed and the father’s comments are cruel and demeaning. The Board does not accept KA’s explanation that the publication was to be used as a record to show the child how he looked when he was misbehaving. The child is shown to be in deep distress, demeaned and helpless. What is shown in the face of the publication is the power and dominance of the adult in a way which is sexual in terms of the concentration of the filming of the child’s penis and the sexualised comments made by the father.

The Board finds further that the presentation of the images shows a power imbalance between the adult and the child, and the images are sexualised by the dialogue and images of naked genitals. The presentation is likely to appeal to those with a sexual interest in children.

The Board accepts the OFLC’s submission that “a fair reading of both publications [*The 'Untitled Bedroom Scene'* and “B”] is that they normalise the idea that adult control over children confers the right to sexual access. If, as the Court of Appeal has said ‘the legislation is concerned with the vulnerability of young people and with the corrosive injury to the public good of depicting persons perceived to be children or young people as subjects of exploitation’, then classifying them as objectionable ‘will minimise the injury to the public good that the availability of these publications is likely to cause’”.

The Board finds that *The 'Untitled Bedroom Scene'* comes within section 3(2)(a) in that there is promotion and support, or a tendency for promotion or support, of the exploitation of a child for sexual purposes. The Board therefore finds the publication to be objectionable.

The Bill of Rights Act 1990

The Bill of Rights Act 1990 and the 5-step process in *Moonen I* were applied in making this decision.